

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT WARD GARRISON,

Plaintiff,

v.

DOUGLAS WADDINGTON, *et al.*,

Defendants.

Case No. C05-5487RJB

ORDER RENOTING
REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge Karen L. Strombom. Dkt. 119. The Court has considered the Report and Recommendation, objections to the Report and Recommendation, if any, and the remainder of the file herein.

I. FACTS

On August 2, 2005, Plaintiff filed, pro se, a complaint pursuant to 42 U.S.C. § 1983. Dkt. 1. Defendants moved for Summary Judgment on July 21, 2006. Dkt. 38. Plaintiff moved for and received several extensions of time to respond. *See e.g.* Dkts. 43, 49, 54,66, 74, and 86.

On October 5, 2007, Plaintiff moved for class action certification on counts I and IV of his complaint. Dkt. 95. Upon Judge Strombom's recommendation, Plaintiff's motion was denied on January 8, 2008, because he failed to meet the requirements of Fed. R. Civ. P. 23 and Local Fed. R. Civ. P. 23. Dkt. 114. Plaintiff filed a "Notice of Appeal of Order Denying Certification of Class Action" on January 22, 2008. Dkt. 116. In this pleading, Plaintiff also moves for a "stay of all pending motions till [sic] the review of the denial of class certification is finalized." *Id.*

1 On January 28, 2008, Judge Strombom filed the instant Report and Recommendation, and
2 recommended granting Defendants' Motion for Summary Judgment (Dkt. 38). Dkt. 119.

3 **II. DISCUSSION**

4 Pursuant to Fed. R. Civ. P. 23(f),

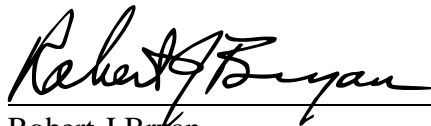
5 A court of appeals may permit an appeal from an order granting or denying class-action
6 certification under this rule if a petition for permission to appeal is filed with the circuit
7 clerk within 10 days after the order is entered. An appeal does not stay proceedings in the
8 district court unless the district judge or the court of appeals so orders.

9 Plaintiff's motion for a stay of all pending motions (Dkt. 116) should be denied. The record
10 indicates that the Court of Appeals for the Ninth Circuit issued a scheduling order for Plaintiff's appeal, but
11 did not address whether a stay was appropriate in the district court. Dkt. 120. Plaintiff has failed to
12 articulate good cause for a stay. This matter has been pending for several years and he has had ample time
13 to respond to the Motion for Summary Judgment. However, in the interest of giving Plaintiff one last
14 opportunity to be heard, the Report and Recommendation (Dkt. 119) should be renoted for March 21,
15 2008.

16 Therefore, it is **ORDERED** that:

- 17 • The Report and Recommendation (Dkt. 119) is **RENOTED** for March 21, 2008; and
- 18 • The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any
19 party appearing *pro se* at said party's last known address.

20 DATED this 3rd day of March, 2008.

21 

22 Robert J Bryan
23 United States District Judge